IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF OCTOBER
TWO THOUSAND AND SEVEN

PRESENT

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION Nos.17616, 17623,
17629 AND 17639 OF 2002

W.P.No.17616 OF 2002

Between:

V.Satyanarayana

.... PETITIONER

AND

Prohibition and Excise Inspector,
Banswada, Nizamabad District,
And another.

....RESPONDENTS

W.P.No.17623 OF 2002

Between:

G.Saya Goud

.... PETITIONER

AND

Prohibition and Excise Inspector,
Banswada, Nizamabad District,
And another.

....RESPONDENTS

W.P.No.17629 OF 2002

Between:

G.Saya Goud

.... PETITIONER

AND

Prohibition and Excise Inspector,
Banswada, Nizamabad District,
And another.

....RESPONDENTS

W.P.No.17639 OF 2002

Between:

V.Satyanarayana

.... PETITIONER

AND

Prohibition and Excise Inspector,
Banswada, Nizamabad District,
And another.

....RESPONDENTS

THE HON'BLE SRI JUSTICE
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C O M M O N O R D E R

Since common questions of law and fact arise in these writ petitions, they are being disposed of by a common order.

2. Petitioners in these petitions are excise contractors who fell in arrears of rent due and payable to the Government. So, the Excise Officials issued notices to them to pay the amount due along with interest and offered to receive the principal amount, by waiving interest, if the amounts are paid within a particular date. Petitioners who did not pay the amounts within the specified date, filed these writ petitions alleging that the officials of the excise department are coming to their houses and threatening to dispossess them from the houses by force, and sought a direction that they should not be dispossessed from the houses and other properties without taking recourse to due process of law. It is also their contention that inasmuch as the claim

against them is barred by time, respondents cannot recover any amount from them.

3. The contention of the learned counsel for petitioners is that the respondents who did not take steps to recover the dues from the petitioners for over 12 years, cannot recover the arrears from the petitioners and contended that inasmuch as the period of limitation for recovery of the dues is only three years from the due date and as that period of three years expired long long back, respondents who have no right to recover the time barred arrears cannot dispossess the petitioners from their properties high handedly.

4. The contention of the learned Government Pleader is that since the period of limitation for recovery of the amounts due to the Government is 30 years as per Article 112 of the Limitation Act, the claims against the petitioners are not barred by time and as the A.P. Excise Act confers a right to recover the amount due to the Excise Department under the provisions of the Revenue Recovery Act, the respondents are taking steps to recover the amounts due under Revenue Recovery Act, but they are not trying to dispossess the petitioners from their properties high-handedly or illegally.

5. I am unable to accept the contention of the learned counsel for the petitioners that the respondents have no right to recover arrears for over three years from the petitioners, because as per Article 112 of the Limitation Act, the period of limitation for recovery of amounts due to the Government is 30 years. The amount due from the petitioners is for the period less than 30 years, and so, the claim against them cannot be said to be barred by time.

6. In view of Section 65 of the A.P. Excise Act, 1968 excise arrears can be recovered by taking recourse to the provisions of the Revenue Recovery Act. Therefore, the respondents have a right to recover the

excise arrears from the petitioners by taking recourse to due process of law by filing a suit, but cannot interfere with the possession of the petitioners over their properties or dispossess them from the properties by force.

7. Therefore, the writ petitions are disposed of without costs, holding that respondents can proceed against the petitioners for recovery of the excise dues from the petitioners under the Revenue Recovery Act and/or by other legal modes, but cannot dispossess the petitioners from their properties high-handedly without taking recourse to due process of law.

JUSTICE C.Y.SOMAYAJULU

10th OCTOBER, 2007
PGS

THE HONOURABLE SRI JUSTICE
C.Y.SOMAYAJULU

WRIT PETITION Nos.17616, 17623,
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10th OCTOBER, 2007